

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARRY CRAWFORD,

Defendant.

**8:11CR353**

**MEMORANDUM AND ORDER**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARRY CRAWFORD,

Defendant.

**8:11CR383**

**MEMORANDUM AND ORDER**

This matter is before the court on Barry Crawford's motions to alter or amend the court's decision on his [28 U.S.C. § 2255](#) motions, Filing No. 58 in case 8:11cr353 and Filing No. 41 in case 8:11cr383. The court found that Crawford's challenge to a career offender enhancement under the Sentencing Guidelines was foreclosed by the Supreme Court's decision in [Beckles v. United States, 137 S. Ct. 886 \(2017\)](#), and that any challenge under [Descamps v. United States, 570 U.S. 254 \(2013\)](#) or [Mathis v. United States, 136 S. Ct. 2243 \(2016\)](#), fails because those cases are not given retroactive effect on collateral review.

Crawford points to the Department of Justice directive to federal prosecutors not to assert a retroactivity defense in collateral attacks of this nature and argues *Descamps* and *Mathis* should be given retroactive effect. The court is not

unsympathetic to Crawford's position, but is foreclosed by precedent from granting the relief he seeks. The court has considered Crawford's arguments and finds the motions to alter or amend should be denied. Accordingly,

IT IS ORDERED that the defendant's motions to alter or amend (Filing No. 58 in case 8:11cr353 and Filing No. 41 in case 8:11cr383) are denied.

Dated this 18th day of May, 2018.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge